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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,132	07/30/2003	Wayne Carmona	CARMO.001A	9008
20995	7590	05/13/2004		
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER	KING, ANITA M
			ART UNIT	PAPER NUMBER
				3632

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/630,132	CARMONA, WAYNE	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 July 2003.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6,8-17,19 and 20 is/are rejected.  
 7) Claim(s) 7 and 18 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 30 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/30/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

This is the first office action for application number 10/630,132, Flex Grip Fixture Clamp, filed on July 30, 2003.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "46," first support member channel. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 11 and 19 are objected to because of the following informalities: in line 1 of the claim the phrase --the steps of-- should be inserted after "comprising" and in line 5, "connection" should be --connecting--. Appropriate correction is required.

Claim 12 is objected as failing to further limit the subject matter of a previous claim. Claim 12 is directed to structural limitations whereas claim 11, from which claim 12 depends, claims a method.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 11-16, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,303,345 to McFeaters. In regards to claims 1-5 and 20, McFeaters discloses a flex grip clamp comprising: a progressive support clamp (6 & 7) including a support member channel to receive a support member, a semispherical recess (10), and a handle (9); a biscuit clamp (4) comprising an accessory member channel; a ball joint comprising a ball (11) selectively engageable with the semispherical recess, the ball joint interconnecting the progressive support clamp and the biscuit clamp; wherein the progressive support clamp is actuatable from an open position to a support member clamp position, the support member clamp position precluding movement of the fixture clamp with respect to the support member clamp and allowing rotation of the ball, and wherein the progressive support clamp is further actuatable to a full clamp position, the full clamp position fixing the position of the ball; wherein the ball joint is configured to provide omnidirectional positioning of the biscuit clamp; wherein the ball joint has at least 180 degrees of motion in all directions; and wherein the ball joint further comprises a link member (shank portion of ball in Fig. 3) located between the ball and the biscuit clamp so that movement of the ball is transmitted through the link member to the biscuit clamp.

In regards to claims 11-16, McFeaters inherently teaches the method for positioning an accessory, the method comprising the steps of: providing a flex grip fixture clamp; coupling an accessory with the clamp; actuating the flex grip fixture clamp to an open position to enable the progressive support clamp to be coupled with a

support member; actuating the flex grip fixture clamp to a support member clamp position; actuating the flex grip fixture clamp to a full clamp position; inserting a member into a channel formed in the biscuit clamp; inserting a support member into the support member channel prior to actuating the flex grip fixture clamp from the open position to the support member clamp position; articulating the ball joint to position the accessory clamp; and articulating the ball joint within the progressive support clamp.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over McFeaters. McFeaters discloses the claimed invention except for the limitation of the link member including a first end being smaller than a second end. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have tapered the shank portion (Fig. 3) of the link member so as to include a first end being smaller than a second end for the purpose of providing an aesthetically different appearance to the ball joint and since such a modification would not have produced any unexpected results.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over McFeaters in view of U.S. Patent 4,577,989 to Ito. McFeaters discloses the claimed

invention except for the limitation of a ring bearing. Ito teaches that it is known in the ball joint art to have a ball joint including a ball (3) and a ring bearing (4) having a curved wall of a radius matching that of the ball, the ring bearing being located on a hemisphere of the ball. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the ball joint in McFeaters to have included the ring bearing as taught by Ito for the purpose of providing a means to assist in the rotation of the ball within the recess.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFeaters in view of U.S. Patent 600,642 to Hartman. McFeaters discloses the claimed invention except for the limitation of the biscuit clamp having a plurality of accessory member channels. Hartman teaches an adjustable bracket having two clamping portions and wherein one clamp portion has a plurality of channels (4 & 5) and wherein the channels have different transverse cross-sectional sizes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the biscuit clamp (4) in McFeaters to have been the clamp (A, B) in Hartman for the purpose of providing a clamp that is capable of accommodating different sized accessories.

Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFeaters in view of Hartman and in further view of Ito. McFeaters discloses a grip head comprising: a progressive support clamp (6 & 7) having an elongate member arm, a ball joint portion (10), and a clamp actuating handle (head portion of element 9), the elongate mounting arm defining a first support member channel that extends along

a central longitudinal axis of the elongate mounting arm, the ball joint portion defining a semispherical recess and a bearing recess positioned opposite the semispherical recess; a biscuit clamp (4) having a channel; a ball joint comprising the semispherical recess, a ball (1) contacting the semispherical recess, a link member extending between the ball and the biscuit clamp; wherein the progressive support clamp is actuatable from an open position to a support member clamp position, the support member clamp position clamping a support member in the support member channel without clamping the ball, and wherever the progressive support clamp is further actuatable to a full clamp position, the full clamp position clamping the support member in the support member channel and also clamping the ball to fix the position of the ball; and the progressive support clamp having a front housing (6) having a front housing connecting bore, a back plate (7) having a back plate connecting bore aligned with the front housing connecting bore, and a fastener (9) configured to extend through at least one of the front housing connecting bore and the back plate connecting bore to couple the front housing and the back plate together.

McFeaters discloses the claimed invention except for the limitation of the biscuit clamp having a plurality of channels. Hartman teaches an adjustable bracket having two clamping portions and wherein one clamp portion has a plurality of channels (4 & 5) and wherein the channels have different transverse cross-sectional sizes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the biscuit clamp (4) in McFeaters to have been the clamp (A, B) in

Hartman for the purpose of providing a clamp that is capable of accommodating different sized accessories.

McFeaters combined with Hartman disclose the claimed invention except for the limitation of a bearing. Ito teaches that it is known in the ball joint art to have a ball joint including a ball (3) and a ring bearing (4) having a curved wall of a radius matching that of the ball, the ring bearing being located on a hemisphere of the ball. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the ball joint in McFeaters combined with Hartman to have included the ring bearing as taught by Ito for the purpose of providing a means to assist in the rotation of the ball within the recess.

#### ***Allowable Subject Matter***

Claims 7 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 1,141,152 to Stahl

U.S. Patent 1,735,212 to Pawsat

U.S. Patent 4,483,334 to Murray

- U.S. Patent 4,735,388 to Marks
- U.S. Patent 4,736,921 to Zane et al.
- U.S. Patent 5,184,911 to Wu
- U.S. Patent 5,320,623 to Pennig
- U.S. Patent 5,354,026 to Bulla
- U.S. Patent 5,704,727 to Atkins et al.
- U.S. Patent 5,775,654 to Price
- U.S. Patent 6,286,797 to Thaxton
- U.S. Patent 6,386,786 to Perlman et al.

Stahl discloses a portable support having a plurality of clamping members. Pawsat discloses a support having a plurality of clamping members and a ball joint. Murray discloses a fixation device. Marks discloses a holder having first and second clamping means joined by a plurality of articulating joints. Zane et al. disclose a clamp having a plurality of channels. Wu discloses a mounting structure having a plurality of clamping members. Pennig discloses a clamping coupling for an external fixator. Bulla discloses a hook assembly having a clamp and a ball joint having a link member with one end smaller than the other end. Atkins et al. disclose a ball and socket joint assembly having a retainer ring. Price discloses a holding assembly having a plurality of clamping means. Thaxton discloses an assembly having a plurality of clamping members. Perlman et al. disclose a rotating clamp.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anita M. King  
Primary Examiner  
Art Unit 3632

May 11, 2004